

AMENDED IN SENATE APRIL 28, 2004

SENATE BILL

No. 1729

Introduced by Senator Chesbro

February 20, 2004

An act to amend ~~Section 42301~~ *Sections 42301, 42310, and 42310.1* of, and to repeal Sections 42310.3 and ~~42342~~ *42324* of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, as amended, Chesbro. Plastic containers: recycling.

Existing law, the California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state, to generally meet one of specified criteria, including having a specified recycling rate *including, among other things, that the container have a recycling rate of 25% or have a recycling rate of 55%, if its primary material is polyethylene terephthalate (PETE), based on annual reports published by the board, or have a recycling rate of 45% if it is a product-associated rigid plastic packaging container*. Existing law defines the term “recycling rate” as including one of 4 specified rates, including the proportion that all rigid plastic packaging containers sold, or offered for sale in the state are being recycled in a given calendar year, as specified, and the proportion that a polyethylene terephthalate (PETE) rigid plastic packaging container sold or offered for sale in the state is being recycled in a given calendar year, as specified. Existing law exempts rigid plastic containers that contain cosmetics and food from meeting those criteria, but requires those containers to be included in calculating recycling rates.

This bill would revise the definition of recycling rate to delete those 2 rates from that definition.

This bill would modify the criteria for these containers to delete the recycling rates based on the annual reports published by the board and would modify the requirement for product-associated containers to require the rate to be demonstrated to the board by the product maker, manufacturer, or other entity. The bill would authorize the board to take appropriate action to verify the demonstration, but the bill would specify that the board is not required to expend state funds to conduct a survey or calculate the rate. The bill would make conforming changes with regard to this modification of the criteria.

This bill would delete the requirement that rigid plastic containers that contain cosmetics and food and are recycled be included in calculating recycling rates. The bill would also delete ~~an~~ obsolete provision provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 42301 of the Public Resources Code is
- 2 amended to read:
- 3 42301. For purposes of this chapter, the following definitions
- 4 apply:
- 5 (a) “Curbside collection program” means a recycling program
- 6 that collects materials set out by homeowners for collection at the
- 7 curb at intervals not less than every two weeks. “Curbside
- 8 collection program” does not include redemption centers,
- 9 buyback locations, drop-off programs, material recovery
- 10 facilities, or plastic recovery facilities.
- 11 (b) “Refillable package” means a rigid plastic packaging
- 12 container that the board determines is routinely returned to and
- 13 refilled by the product manufacturer at least five times with the
- 14 original product contained by the package.
- 15 (c) “Reusable package” means a rigid plastic packaging
- 16 container that the board determines is routinely reused by
- 17 consumers at least five times to store the original product
- 18 contained by the package.



(d) “Manufacturer” means the producer or generator of a product that is sold or offered for sale in the state and that is stored inside of a rigid plastic packaging container.

(e) “Rigid plastic packaging container” means any plastic package having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of five fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but not limited to, bottles, cartons, and other receptacles, for sale or distribution in the state.

(f) “Postconsumer material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product lifecycle. Postconsumer material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(g) “Recycled” means a product or material that has been reused in the production of another product and has been diverted from disposal in a landfill.

(h) “Recycling rate” means either of the following:

(1) The proportion, as measured by weight, volume, or number, that a particular type of rigid plastic packaging container sold or offered for sale in the state, such as a milk jug, soft drink container, or detergent bottle, is being recycled in a given calendar year.

(2) The proportion, as measured by weight, volume, or number, that a product-associated rigid plastic packaging container sold or offered for sale in the state is being recycled in a given calendar year.

(i) (1) “Source reduced container” means either of the following:

(A) A rigid plastic packaging container for which the manufacturer seeks compliance as of January 1, 1995, whose package weight per unit or use of product has been reduced by 10 percent when compared with the packaging used for that product by the manufacturer from January 1, 1990, to December 31, 1994.

(B) A rigid plastic container for which the manufacturer seeks compliance after January 1, 1995, whose package weight per unit or use of product has been reduced by 10 percent when compared with one of the following:

1 (i) The packaging used for the product by the manufacturer on
2 January 1, 1995.

3 (ii) The packaging used for that product by the manufacturer
4 over the course of the first full year of commerce in this state.

5 (iii) The packaging used in commerce that same year for
6 similar products whose containers have not been considered
7 source reduced.

8 (2) A rigid plastic packaging container is not a source reduced
9 container for the purposes of this chapter if the packaging
10 reduction was achieved by any of the following:

11 (A) Substituting a different material type for a material that
12 previously constituted the principal material of the container.

13 (B) Increasing a container's weight per unit or use of product
14 after January 1, 1991.

15 (C) Packaging changes that adversely affect the potential for
16 the rigid plastic packaging container to be recycled or to be made
17 of postconsumer material.

18 (j) "Product-associated rigid plastic packaging container"
19 means a brand-specific, rigid plastic packaging line that may have
20 one or more sizes, shapes, or designs and that is used in
21 conjunction with a particular generic product line.

22 (k) "PETE" means polyethylene terephthalate as specified in
23 subdivision (a) of Section 18015.

24 (l) "HDPE" means high-density polyethylene.

25 SEC. 2. *Section 42310 of the Public Resources Code is*
26 *amended to read:*

27 42310. Except as otherwise provided in this chapter, every
28 rigid plastic packaging container sold or offered for sale in this
29 state shall, on average, meet one of the following criteria:

30 (a) Be made from 25 percent postconsumer material.

31 ~~(b) Have a recycling rate of 25 percent, based on annual reports~~
32 ~~published by the board. For purposes of this subdivision, PETE~~
33 ~~material shall be included in this calculation.~~

34 ~~(c) Have a recycling rate of 55 percent if its primary material~~
35 ~~is PETE, based on annual reports published by the board.~~

36 ~~(d) Have a recycling rate of 45 percent if it is a~~
37 ~~product-associated rigid plastic packaging container, as~~
38 ~~demonstrated to the board by the product maker, container~~
39 ~~manufacturer, or other entity. The board may take appropriate~~

1 *action to verify the demonstration, but the board is not required to*
2 *expend state funds to conduct a survey or calculate the rate.*

3 ~~(e)–~~

4 ~~(c) Be a reusable package or a refillable package.~~

5 ~~(f)–~~

6 ~~(d) Be a source reduced container.~~

7 ~~(g)–~~

8 ~~(e) Is a container containing floral preservative that is~~
9 ~~subsequently reused by the floral industry for at least two years.~~

10 *SEC. 3. Section 42310.1 of the Public Resources Code is*
11 *amended to read:*

12 42310.1. ~~(a) Until January 1, 1997, the criteria specified in~~
13 ~~Section 42310 shall not apply to any rigid plastic packaging~~
14 ~~container that is manufactured for use with food or cosmetics, as~~
15 ~~defined in subdivisions (f) and (i) of Section 321 of Title 21 of the~~
16 ~~United States Code.~~

17 ~~(b) Notwithstanding subdivision (a), rigid plastic packaging~~
18 ~~containers actually recycled shall be included in calculating the~~
19 ~~recycling rate pursuant to subdivision (b) or (c) of Section 42310.~~

20 ~~(c) Every~~ A manufacturer of a product packaged in a rigid
21 plastic packaging container described in subdivision (a), which
22 that is manufactured for use with food or cosmetics, as defined in
23 subdivisions (f) and (i) of Section 321 of Title 21 of the United
24 States Code and that is not in compliance with Section 42310, that
25 is exempt from the criteria specified in Section 42310 pursuant to
26 subdivision (a), shall do both of the following:

27 ~~(1) On or before December 1, 1995, the manufacturer shall~~
28 ~~submit a report to the board which demonstrates that the~~
29 ~~manufacturer is taking, and will continue to take, all feasible~~
30 ~~actions consistent with Section 42310 to ensure the reduction,~~
31 ~~recycling, or reuse of the rigid plastic packaging containers~~
32 ~~described in subdivision (a) and the development and expansion~~
33 ~~of markets for rigid plastic packaging containers. Those actions~~
34 ~~may include, but are not limited to, all of the following:~~

35 ~~(A) The use of postconsumer recycled plastic in rigid plastic~~
36 ~~packaging containers sold in this state.~~

37 ~~(B) The use of postconsumer recycled plastic in other~~
38 ~~packaging materials sold or manufactured in this state.~~

39 ~~(C) The use of postconsumer recycled plastic in other products~~
40 ~~sold or manufactured in this state.~~

~~(D) Arranging for the use of postconsumer recycled plastic collected for recycling in this state in the manufacture of nonrigid plastic packaging container products or packaging of another entity.~~

~~(E) The procurement of products containing postconsumer recycled plastic, including, but not limited to, trash bags, trash containers, pallets, carpeting, slip sheets, and shrink wrap.~~

~~(F) The demonstration of financial investment in recycled plastic collecting, processing, and remanufacturing activities in the state.~~

~~(2) On or before January 1, 1996, every manufacturer of rigid plastic packaging containers shall, for any rigid plastic packaging container that is exempt from, and not in compliance with, the criteria specified in Section 42310 pursuant to subdivision (a), shall diligently seek one or more “nonobjection letters” from the United States Food and Drug Administration —which that will permit the manufacturer of the rigid plastic packaging containers to use recycled plastic in the manufacture of the rigid plastic packaging containers described in subdivision (a) container.~~

~~SEC. 4.~~ Section 42310.3 of the Public Resources Code is repealed.

~~SEC. 3.~~

~~SEC. 5.~~ Section 42324 of the Public Resources Code is repealed.